violation of the criminal laws of a state or of the United States. He could be tried by a general court-martial for a capital crime as a disorder or neglect prejudicial to good order and military discipline, even though he had been acquitted for murder by the civil authorities. *In re Stubbs,* 133 Fed. 1012. And a trial and acquital by a court-martial is not a bar to a prosecution by the proper civil authorities. *U. S.* v. *Clark,* 31 Fed. 710, *In re Fair,* 100 Fed. 149. It will be noted this is not unconstitutional as the prisoner is prosecuted in each case for a different offense. But an acquital by a court-martial is a bar to subsequent prosecution in a civil court for the same acts constituting the *same* crime. The jurisdiction of the military courts is thus seen to be concurrent with the civil courts. *Grafton* v. *U. S.,* 206 U. S. 333, 11 Ann. Cas. 640; *Franklin* v. *U. S.,* 216 U. S. 559. In *Coleman* v. *Tennessee,* 97 U. S. 509, it was said that where an offense covered by this article was committed in time of war in enemy country, the military authorities have exclusive jurisdiction of the offense. "This position was based on principles of international law and not on an interpretation of the statute." *Ex Parte King* (*supra*). It was in that case Field, J., recognized the superior jurisdiction of the military authorities in a case like the present. Whatever may have been the law under the old articles, under the new ones the military authorities have the preference in the exercise of jurisdiction. The court intimates that the jurisdiction may even be exclusive. Most of the cases cited above were discussed by the court.

WILLS—ESTATE DEVISED—RULE IN SHELLEY'S CASE.—A will devised testators' land to their son-in-law and daughter, adding that after the daughter's death it was to be divided equally between said son-in-law and the heirs of the daughter's body. The daughter, who subsequently outlived her husband, had joined with him in a conveyance to the defendant. She is now dead and the plaintiff is her only heir-at-law. *Held,* that the rule in *Shelley's Case* applies in spite of previous North Carolina decisions rejecting its application where the limitation to the heirs is qualified by the words "equally to be divided," and the like, because here the qualifying words serve merely to separate the husband's estate from that of the heirs of the wife; that the statute enlarges a fee-tail into a fee simple and the defendant takes an indefeasible title under the conveyance. (Clark, C. J. and Brown, J. dissenting). *White* v. *Goodin,* (N. C., 1917), 94 S. E. 454.

It is noteworthy that the whole court unites in the belief that such words of division may remove the devise from the application of the rule, though they acknowledge that this position is exactly contrary to the holdings of the English courts, see *Jesson* v. *Wright,* 2 Bligh 1, wherein the device was worded in exactly the same language as here. Apparently they do not realize that it is also contrary to an acknowledgment of the validity of the rule, which we are told is not one of construction but of legal policy, *Perrin* v. *Blake,* 4 Burr. 2579. American courts however have not always felt constrained to follow the English decisions, particularly where a devise is in question, but have rather hesitated to defeat the testator's intent though he

attempted to effectuate it in defiance of established legal principles, *Ridgeway* v. *Lamphear*, 99 Ind. 251. Still other jurisdictions show an inclination to take advantage of the words of distribution to construe "heirs" as a word of purchase. *Fulton* v. *Harman*, 44 Md. 251.

WORKMEN'S COMPENSATION—COURSE OF EMPLOYMENT—"ARISING OUT OF EMPLOYMENT".—An employee of a master engaged in the business of repairing furnaces, while on his way to do a job of repairing, left the vehicle provided by his employer, to buy tobacco for personal use. In crossing the street to reach the tobacco store he was struck by an automobile and killed. In a proceeding by the widow and children to obtain an award of compensation under the Workmen's Compensation Act, *held*, two judges dissenting, there should be no award, the accident not having been one arising "in the course and out of the employment". *In re Betts*, (Ind. App., 1918), 118 N. E. 551.

Emphasis was laid chiefly upon the fact that as the deceased was exposed only to the same hazards on the street as any pedestrian, his employment could not be said to have any causal connection with the injury, hence the accident was not one arising "out of his employment". Among the cases chiefly relied upon for this conclusion are the English cases repudiated by the House of Lords in *Dennis* v. *J. A. White & Co.*, [1917], A. C. 479, commented upon in 16 MICH. L. REV. 179. See *Martin* v. *Lovibond & Sons*, [1914], 2 K. B. 227, where compensation was awarded for an injury received by a drayman in the street while returning to his team after getting a glass of beer.